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Sam Johnson

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EXAMINER

NGUYEN, THANH T

ART UNIT

PAPER NUMBER

2144

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/547,710  
Filing Date: April 11, 2000  
Appellant(s): JOHNSON ET AL.

**MAILED**

**JUN 26 2006**

**Technology Center 2100**

Gregory S. Smith (reg.40,810)  
For Appellant

**EXAMINER'S ANSWER**

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This is in response to the appeal brief filed April 19, 2006 appealing from the Office action mailed January 5, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

A statement identifying by name the real party in interest is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,169,542

HOOKS

1-2201

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-8, 10, 11, 20, 28, 31-33, 42, 46-58, 80, 89-94 and 96-98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan et al. (Logan), U.S. Patent No. 5,732,216 in view of Hooks et al. (Hooks), U.S. Patent No. 6,169,542.

2. Regarding **claim 1**, Logan discloses the invention substantially as claimed. Logan discloses a closed loop system for delivering information obtained from an information content source to a playback device, comprising: a mobile-content server comprising: an information content source interface [see Logan, Col. 4, lines 40-54]; a playback device interface [see Logan, Col. 4, lines 40-67 and Col. 5, lines 1-62]; and a server application operating on the mobile-content server and enabling the mobile-content server to be operative to: receive user information [see Logan, Col. 5, lines 33-45]; obtain content programming information via the information content source interface, the content programming information being based at least in part on the user information [see Logan, Col. 7, lines 16-25]; and including a plurality of content segments [see Logan, Col. 18, lines 43-67, Col. 19, lines 1-43]; deliver the content programming information to the playback device via the playback device interface [see Logan, Col. 7, lines 20-30]; and receive response information from the playback device via the playback device interface [see Logan, Col. 6, lines 6, lines 9-26, Col. 17, lines 42-61]. Eventhough, Logan does imply program segments and within the program segments having a comment field that contains the program id of the program segments

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commented [see Logan, Col. 18, lines 43-67 and Col. 19, lines 1-43]. However, Logan does not explicitly disclose including a plurality of content segments with at least one of the plurality of content segments including at least one sub-segment.

3. In the same field of endeavor, Hooks discloses (e.g., method of delivering advertising through an interactive video distribution system). Hooks discloses at least one of the plurality of content segments including at least one sub-segment (Hooks teaches menu items associated with advertisements) [see Hooks, Figures 3 and 8 and 9, Col. 5, lines 18-50, Col. 9, lines 25-43], (The Examiner is utilizing Applicant's specification as a guide for interpreting the claim limitation, see page 33, lines 7-10).

4. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Hooks' teachings of a method of delivering advertising through an interactive video distribution system with the teachings of Logan, for the purpose of effectively delivering advertising to viewers [see Hooks, Col. 2, lines 25-35]. By this rationale **claim 1** is rejected.

5. Regarding **claim 2**, Logan-Hooks discloses *wherein the response information includes a time-stamp* [see Logan, Col. 18, lines 17-21]. By this rationale **claim 2** is rejected.

6. Regarding **claim 3**, Logan-Hooks discloses *wherein the response information is associated with a particular sub-segment of a content segment of the content programming information and the response information solicits various actions based on which sub-segment within the content segment with which is associated* (Logan teaches that the player identifies program segments desired by the subscriber, program segments newly requested by the user are appended to the compilation), [see Logan, Col. 6, lines

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9-26 and Col. 17, lines 42-61 and see also Hooks, Col. 9, lines 40-52]. By this rationale **claim 3** is rejected.

7. Regarding **claim 4**, Logan-Hooks discloses *wherein the mobile-content server further comprises an advertising database for storing advertisement segments* [see Logan, item 135]. By this rationale **claim 4** is rejected.

8. Regarding **claim 5**, Logan-Hooks discloses *wherein the mobile-content server is further operative to deliver selected advertisement segments to the playback device via the playback device interface* [see Logan, Col. 5, lines 45-62], *the selected advertisement segments being selected from the advertising database* [see Logan, Col. 16, lines 6-67]. By this rationale **claim 5** is rejected.

9. Regarding **claim 6**, Logan-Hooks discloses *wherein the selected advertisements segments include at least one sub-segment and the response information from the playback device is associated with a sub-segment of the selected advertising segment and when the response is associated with at least one sub-segment of an advertisement segment, the response indicates an intent to make a purchase* [see Logan, Col. 16, lines 6-67]. By this rationale **claim 6** is rejected.

10. Regarding **claim 7**, Logan-Hooks discloses *wherein the mobile-content server selects the advertisement segments from the advertising database based, at least in part, on the user information* [see Logan, Col. 5, lines 33-45, Col. 16, lines 6-67 and Col. 17, lines 1-18]. By this rationale **claim 7** is rejected.

11. Regarding **claim 8**, Logan-Hooks discloses *wherein the response information from the playback device is associated with a particular portion of the content programming information* (Logan teaches that the player identifies program segments

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desired by the subscriber, program segments newly requested by the user are appended to the compilation), [see Logan, Col. 6, lines 9-26 and Col. 17, lines 42-61]. By this rationale **claim 8** is rejected.

12. Regarding **claim 10**, Logan-Hooks discloses *wherein the user information comprises preference information comprising specific content request and content categories* [see Logan, Col. 4, lines 26-30, Col. 5, lines 32-45 and Col. 9, lines 28-41]. By this rationale **claim 10** is rejected.

13. Regarding **claim 11**, Logan-Hooks discloses *wherein the playback device comprises: a memory storage unit* [see Logan, Col. 3, lines 22-40]; *an information content source interface* [see rejection of claim 1, supra]; *a mobile-content server interface* (Logan teaches that the host server stores and maintains a user data and usage log database which stores uploaded usage data received from the store in the player via the Internet pathway and the FTP server interface), [see Logan, Col. 5, lines 32-44], (Examiner is utilizing Applicant's specification as a guide for interpreting the claims, (see page 11, lines 7-19 of Applicant's specification); *and a processing unit coupled to the memory storage unit* [see Logan, Col. 6, lines 20-60], *the information content source interface and the mobile-content server interface, the processing unit, in response to instructions stored in the memory storage unit, being operative to: enable the information content source interface in accordance with the content programming information; receive information content from an information content source via the information content source interface; and store the information content into the memory storage unit* [see Logan, Col. 3, lines 23-41]. By this rationale **claim 11** is rejected.

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14. Regarding **claim 20**, Logan-Hooks discloses *wherein the playback device comprises: a memory storage unit; an information content source interface [see rejection of claims 1 and 11, supra]; a mobile-content server interface [see rejection of claims 1 and 11, supra]; an audio output [see Logan, Col. 3, lines 23-41]; a processing unit coupled to the memory storage unit, the mobile content server interface, the audio output and the information content source interface, the processing unit, in response to instructions stored in the memory storage unit, being operative to: enable the information content source interface in accordance with the content programming information; receive information content transmitted content from an information content source via the information content source interface; and provide the information content to the audio output [see rejection of claims 1 and 11, supra]. By this rationale **claim 20** is rejected.*

15. Regarding **claim 28**, Logan-Hooks discloses *wherein the information content source interface is a cellular receiver [see Logan, Col. 6, lines 26-65] and the content programming information comprises a telephone number and a time-stamp, and the playback device is operative to enable the information content source interface by initiating a call to the telephone number at the time identified by the timestamp [see Logan, Col. 7, lines 20-26]. By this rationale **claim 28** is rejected.*

16. Regarding **claim 31**, Logan-Hooks discloses *wherein the information content source interface is a cellular receiver [see Logan, Col. 6, lines 26-65] and the content programming information comprises a time-stamp, and the playback device is operative to enable the information content source interface by accepting an incoming call at the*



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*time identified by the time-stamp* [see Logan, Col. 7, lines 20-26]. By this rationale **claim 31** is rejected.

17. Regarding **claim 32**, Logan-Hooks discloses *wherein the information content is received by the playback device in raw form* (Logan teaches receiving data in text (raw) being able to convert from text to speech), [see Logan, Col. 5, lines 15-31]. By this rationale **claim 32** is rejected.

18. Regarding **claim 33**, Logan-Hooks discloses *wherein the information content is received by the playback device in content segment form* [see Logan, Col. 7, lines 20-30]. By this rationale **claim 33** is rejected.

19. Regarding **claim 42**, Logan-Hooks discloses *a playback device comprising: a memory storage unit; an information content source interface; a mobile-content server interface; a processing unit coupled to the memory storage unit, the information content source interface and the mobile-content server interface, the processing unit, in response to instructions stored in the memory storage unit, being operative to: receive content programming information via the mobile content server interface; enable the information content source interface in accordance with the content programming information; receive information content from the information content source via the information content source interface; convert information content into one or more content segments, and convert at least one content segment into at least one sub-segment* (The Examiner takes Official Notice (see MPEP 2144.03)), that the converting of content segment into sub-segment is extremely well known in the networking art), (see also Hoarty et al., U.S. Patent No. 5,319,455, Col. 8, lines 51-59)). By this rationale **claim 42** is rejected.

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20. Regarding **claim 44**, Logan-Hooks discloses *wherein prior to storing the information content into the memory storage unit, the processing unit is operative to convert the information content into one or more content segments* [see rejection of claim 42, supra]. By this rationale **claim 44** is rejected.

21. Regarding **claim 46**, Logan-Hooks discloses *wherein the information content source interface is a cellular receiver* [see Logan, Col. 6, lines 36-65]. By this rationale **claim 46** is rejected.

22. Regarding **claim 47**, Logan-Hooks discloses *wherein the information content is received by the playback device in raw form* (Logan teaches receiving data in text (raw) being able to convert from text to speech), [see Logan, Col. 5, lines 15-31]. By this rationale **claim 47** is rejected.

23. Regarding **claim 48**, Logan-Hooks discloses *wherein the information content is received by the playback device in content segment form* [see Logan, Col. 7, lines 20-30]. By this rationale **claim 48** is rejected.

24. Regarding **claim 49**, Logan-Hooks discloses *wherein the information content source interface is a cellular receiver and the content programming information comprises a telephone number and a time-stamp* [see Logan, Col. 6, lines 26-65], *and the playback device is operative to enable the information content source interface by initiating a call to the telephone number at the time identified by the time-stamp* [see Logan, Col. 7, lines 20-26]. By this rationale **claim 49** is rejected.

25. Regarding **claim 50**, Logan-Hooks discloses *wherein the information content is received by the playback device in raw form* (Logan teaches receiving data in text (raw)

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being able to convert from text to speech), [see Logan, Col. 5, lines 15-31]. By this rationale **claim 50** is rejected.

26. Regarding **claim 51**, Logan-Hooks discloses *wherein the information content is received by the playback device in content segment form* [see Logan, Col. 7, lines 20-30]. By this rationale **claim 51** is rejected.

27. Regarding **claims 52-57**, the limitations of this claim are substantially the same as that of claims 1-12 and thus are rejected for the same rationale in rejecting claims 1-12 above.

28. Regarding **claim 58** the limitations of these claims are substantially the same as that of claim 1, and thus are rejected for the same rationale in rejecting claim 1, above.

29. Regarding **claim 80**, the limitations of this claim are substantially the same as that of claim 1 and thus are rejected for the same rationale in rejecting claim 1 above.

30. Regarding **claim 89**, Logan-Hooks discloses *a playback device comprising: a memory storage unit* [see rejection of claims 1 and 20, supra]; *an information content source interface* [see rejection of claim 1, supra]; *a user interface* [see Logan, Col. 35, lines 47-55] *and a processing unit coupled to the memory storage unit, the user interface and the information content source interface, the processing unit, in response to instructions stored in the memory storage unit, being operative to: in response to instructions received via the user interface, enable the information content source interface; receive at least one selection menu via the information content source interface; receive a content selection via the user interface, the content selection being associated with at least one item on the at least one selection menu; provide an indicator of the content selection to the information content source interface; receive information*

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*content via the information content source interface, the information content being associated with the content selection; and store the information content into the memory storage unit* [see rejection of claims 1 and 20, supra]. By this rationale **claim 89** is rejected.

31. Regarding **claim 90**, Logan-Hooks discloses further comprising an audio interface [see rejection of claims 1, 20, 89, supra] and a response generator interface [see rejection of claim 89, supra] and the processing unit is further operative to: read the information content from the memory storage unit; provide the information content to the audio interface; detect a response signal on the response generator interface; and associate the response signal with the information content currently being provided to the audio interface [see Logan, Col. 15, lines 47-64]. By this rationale **claim 90** is rejected.

32. Regarding **claim 91**, Logan-Hooks discloses wherein the processing unit is further operative to provide the response signal to the information content source interface [see Logan, Col. 15, lines 47-64]. By this rationale **claim 91** is rejected.

33. Regarding **claim 92**, Logan-Hooks discloses wherein the at least one selection menu is an audio menu and the processing unit provides the at least one selection menu to the audio interface [see Logan, Col. 15, lines 46-64]. By this rationale **claim 92** is rejected.

34. Regarding **claim 93**, Logan-Hooks discloses wherein the user interface includes a display device, the at least one selection menu is a displayable menu and the processing unit provides the at least one selection menu to the display device [see Logan, Col. 15, lines 46-64]. By this rationale **claim 93** is rejected.

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35. Regarding **claim 94**, Logan-Hooks discloses *a playback device comprising: a memory storage unit; an information content source interface [see rejection of claim 1, supra]; an audio interface [see rejection of claims 1 and 20, supra] a user interface [see rejection of claim 1, supra]; and a processing unit coupled to the memory storage unit, the user interface, the audio interface and the information content source interface, the processing unit [see rejection of claims 1 and 20, supra], in response to instructions stored in the memory storage unit, being operative to: in response to instructions received via the user interface, enable the information content source interface; receive at least one selection menu via the information content source interface; receive a content selection via the user interface, the content selection being associated with at least one item on the at least one selection menu; provide an indicator of the content selection to the information content source interface; receive information content via the information content source interface, the information content being associated with the content selection; and provide the information content to the audio interface [see rejection of claims 1 and 20, supra]. By this rationale **claim 94** is rejected.*

36. Regarding **claim 96**, Logan discloses *wherein the processing unit is further operative to provide the response signal to the information content source interface [see rejection of claims 1, 20 and 94, supra]. By this rationale **claim 96** is rejected.*

37. Regarding **claim 97**, Logan discloses *wherein the at least one selection menu is an audio menu and the processing unit provides the at least one selection menu to the audio interface [see Logan, Col. 15, lines 47-64]. By this rationale **claim 97** is rejected.*

38. Regarding **claim 98**, Logan discloses *wherein the user interface includes a display device, the at least one selection menu is a displayable menu and the processing unit*

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provides the at least one selection menu to the display device [see Logan, Col. 15, lines 46-64]. By this rationale **claim 98** is rejected.

39. Claims 24, 25, 34 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan-Hooks as applied to claims 1, 20 and 42 above, and further in view of well known.

40. Regarding **claim 24**, Logan-Hooks discloses wherein the information content source interface is a tunable receiver and the content programming information comprises an information content source identifier and a timestamp and the playback device is operative to enable the information content source interface by tuning to a channel associated with the information content source identifier at the time identified by the time-stamp [see Logan, Col. 13, lines 48-62 and Col. 35, lines 40-55]. By this rationale **claim 24** is rejected.

41. Regarding **claim 25**, Logan-Hooks discloses wherein the information content source interface is a tunable: receiver and the content programming information comprises an information content source identifier and a timestamp and the playback device is operative to enable the information content source interface by tuning the tunable receiver to a channel associated with the information content source identifier at the time identified by the time-stamp [substantially the same as claim 24]. By this rationale **claim 25** is rejected.

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42. Regarding **claim 34**, Logan-Hooks and well known discloses wherein the information content source interface is a tunable receiver [see rejection of claims 24-27, supra] and the content programming information comprises an information content source identifier, a time-stamp and a time duration, and the playback device is operative to enable the information content source interface by tuning to a channel associated with the information content source identifier at the time identified by the time-stamp, and the playback device is operative to receive information content transmitted from the information source for the time duration. By this rationale **claim 34** is rejected.

43. Regarding **claim 45**, Logan-Hooks and well known discloses *wherein the information content source interface is a tunable receiver and the content programming information comprises an information content source identifier and a time-stamp and the playback device is operative to enable the information content source interface by tuning to a channel associated with the information content source identifier at the time identified by the time-stamp* [The examiner takes (Official Notice), see MPEP 2144.03]. By this rationale **claim 45** is rejected.

#### **(10) Response to Argument**

- Appellant argues that the combination of Logan and Hooks failed to provide any objective evidence of suggestion or motivation.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

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references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Hooks' teachings of a method of delivering advertising through an interactive video distribution system with the teachings of Logan, for the purpose of effectively delivering advertising to viewers [see Hooks, Col. 2, lines 25-35].

- Appellant argues that the Hooks reference does not teach "delivering a plurality of content segments with at least one content segment including a sub-segment".

Examiner respectfully disagrees. The Applicant's argument is vague. In fact, Applicant is reminded that this limitation is rejected as obviousness as the combination of Logan and further in view of Hooks. Hooks discloses plurality of content segments (first and second advertisements) [see Hooks col.5, lines 25-26, and lines 34-35], including at least one sub-segment (program specific data 50 is an advertisement identifier assigned to first advertisement) [see Hooks col.5, lines 37-40]. Hooks teaches first and second advertisements and the program specific data 50 is an advertisement that has an identifier assigned to advertisements, which is sub-segment of plurality of content segment. Also, in figure 3 of Hooks reference shown an advertisement 50 including identifiers. Therefore, Hooks clearly teaches delivering a plurality of content segments with at least one content segment including a sub-segment.



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- Appellant argues that the Hooks reference does not teach

“delivering content to a playback device”.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Applicant's argument is vague. Logan discloses the client/player 103 (playback device) request including files containing programming and advertising segments (content) move (delivering) from storage unit using FTP server 125 and internet connection into local 107 in the client/player (playback device) to be able to be played. Also, in Logan reference stated clearly that the client/player 103 providing the ability to dynamically switch to an position in this sequence under listeners control which is listener may at any time return to the sequence editing such as volume and speed which that segment was played, and start and ends times [see Logan col.7, line 20 to col.8, line 7]. Therefore, Logan clearly shows that delivering content to a playback device.

- Appellant argues that the Hooks reference does not teach “dividing the content segment into sub-segment”.

Examiner respectfully disagrees. As state the in office action mailed January 5, 2006 that the examiner take official notice (see MPEP 2144.03), that the converting of content segment into sub-segment is extremely well know in the network art). Also see col.8, lines 51-59 of Hoarty et al., U.S. Patent No. 5,319,455. Moreover, Hoarty discloses some advertisement such as TV listings, movie listings,

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classified ads converted into advertisement object module (sub-segment). Hoarty clearly shows that dividing the content segment into sub-segment.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

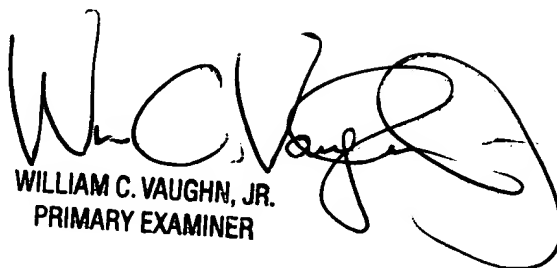
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Art Unit 2144

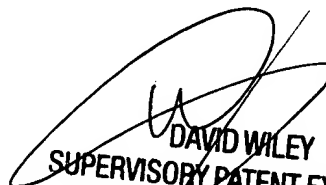
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June 22, 2006

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